

UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

|                                   |   |                               |
|-----------------------------------|---|-------------------------------|
| NEVILLE SYLVESTER LESLIE,         | : |                               |
|                                   | : | CIVIL ACTION NO. 3:10-CV-1005 |
| Plaintiff,                        | : |                               |
|                                   | : | (JUDGE CONABOY)               |
| v.                                | : | (Magistrate Judge Carlson)    |
|                                   | : |                               |
| UNITED STATES OF AMERICA, et al., | : |                               |
|                                   | : |                               |
| Defendants.                       | : |                               |

**FILED**  
**SCRANTON**

SEP 12 2012

PER       
DEPUTY CLERK

ORDER

*BACKGROUND OF THIS ORDER*

Pending before the Court are Magistrate Judge Martin C. Carlson's Report and Recommendation concerning Defendants Tiffany Rupert and C. Reeder (Doc. 87) and his Report and Recommendation concerning Defendant Toby Catone (Doc. 90). Plaintiff has not filed objections and the time for doing so has passed. Therefore, these matters became ripe for disposition on July 14, 2012. (Doc. 92 at 2; Doc. 94.)

The Court will forego a detailed review of the long and winding road this case has taken. Rather, we conclude that Magistrate Judge Carlson has correctly determined that Plaintiff should be given one final opportunity to amend his complaint concerning his remaining claims.

With this determination, we note that the Court permitted Plaintiff to amend his Complaint concerning the matters identified in the Third Circuit Court of Appeals decision in *Leslie v. United States*, 438 F. App'x 103, 106 (3d Cir. 2011):

(a) his claim that he complained about pain in his pancreas for eight weeks but did not receive any medical attention; (b) his claim that two detainees who had tuberculosis were placed in his prison "dormitory"; and (3) his claim that he has not been treated for a torn bicep muscle, which is causing him to lose use of his right hand.

(Doc. 47 at 1.) The Court did not further limit the filing of an amended complaint. Therefore, Plaintiff was not required to seek leave of court before filing an amended complaint and he is not required to do so before filing a second amended complaint should he choose to do so.<sup>1</sup>

Reviewing Plaintiff's Amended Complaint (Doc. 48) in the context of the motions to dismiss and supporting documents filed by Defendants Rupert and Reeder (Docs. 52, 78, 79, 81) and Defendant Catone (Docs. 84, 85), we conclude that Plaintiff must clarify what claims he raises and against whom he raises them.<sup>2</sup>

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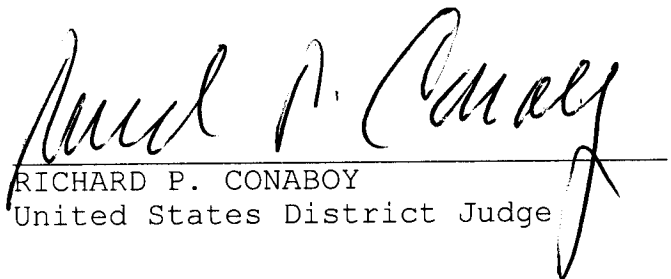
<sup>1</sup> Because Plaintiff is proceeding *in forma pauperis* in this matter (see Doc. 13), he will not be penalized for service issues related to his Amended Complaint.

<sup>2</sup> The following problems with Plaintiff's Amended Complaint (Doc. 48) are by way of example only. As noted by the Magistrate Judge, Plaintiff lists nurses complained to about his pancreas pain but only two of those individuals are named as Defendants and he acknowledges that he received treatment. Plaintiff seems to identify Nurse/PA Toby and PA Catone as two different individuals when the respective motion to dismiss is brought by Toby Catone, P.A. (See Doc. 84.) Although the Magistrate Judge does not discuss Plaintiff's claims related to tuberculosis and a torn bicep muscle, we note that his claim regarding detainees with tuberculosis is insufficiently pled and the Clinton County medical staff involved with his torn bicep claim are not identified.

NOW, THEREFORE, THIS 12<sup>th</sup> DAY OF SEPTEMBER

2012, FOR IT IS HEREBY ORDERED THAT:

1. The Report and Recommendation concerning Defendants Tiffany Rupert and C. Reeder (Doc. 87) is adopted in part;
2. The Report and Recommendation concerning Defendant Toby Catone (Doc. 90) is adopted in part;
3. Plaintiff will be granted a final opportunity file an amended complaint;
4. If Plaintiff chooses to file another amended complaint, such document must be postmarked no later than September 26, 2012;
5. No extensions to the established filing time will be allowed;
6. If Plaintiff does not timely file a second amended complaint, this case will be closed.

  
RICHARD P. CONABOY  
United States District Judge